

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION

BRANDIS BANKS

PLAINTIFF

V.

CIVIL ACTION NO. 3:13cv674-CWR-FKB

HINDS COUNTY DETENTION FACILITY
BOARD OF SUPERVISORS, ET AL.

DEFENDANTS

REPORT AND RECOMMENDATION

This cause comes on this date on the *sua sponte* motion of the Court to dismiss this cause of action because of Plaintiff's failure to prosecute his claims. *Natural Gas Pipeline Co. v. Energy Gathering, Inc.*, 2 F.3d 1397, 1407 (5th Cir. 1993)(citing *Link v. Wabash R.R. Co.*, 370 U.S. 626 (1962) (a district court has inherent power to dismiss a case *sua sponte* for failure to prosecute despite language of Fed. R. Civ. P. 41(b) requiring a motion by defendant)).

Plaintiff failed to appear at the omnibus hearing in this matter held on April 30, 2014, despite having been mailed notice of the hearing at the address provided by Plaintiff to the Clerk of the Court. The notice regarding the hearing was returned to the Court marked as undeliverable. [20] Plaintiff also failed to respond to an Order to Show Cause entered by this Court on April 30, 2014, and which required a response by May 20, 2014. [22] The Order to Show Cause was returned as undeliverable. [24]

The Court warned Plaintiff by two Orders filed October 29, 2013 [3],[4], and an Order filed November 11, 2013 [7], that failure to provide the Court with a change of address or failure to comply with an Order of the Court could result in dismissal of this case.

By failing to appear at the omnibus hearing in this matter, failing to response to the Order to Show Cause, and failing to inform the Court of his apparent change of address, Plaintiff has failed to prosecute this case. For these reasons, the undersigned recommends that Plaintiff's

claims be dismissed without prejudice for failure to prosecute. Fed. R. Civ. P. 41(b).

The parties are hereby notified that failure to file written objections to the proposed findings, conclusions, and recommendation contained within this report and recommendation within fourteen (14) days after being served with a copy shall bar that party, except upon grounds of plain error, from attacking on appeal the unobjected-to proposed factual findings and legal conclusions accepted by the district court. 28 U.S.C. §636.

Respectfully submitted, this the 30th day of May, 2014.

/s/ F. Keith Ball
UNITED STATES MAGISTRATE JUDGE